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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/550,428

09/21/2005

Prabhat Ranjan Mishra

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EXAMINER

VOLZ, ELIZABETH J

ART UNIT

PAPER NUMBER

4177

NOTIFICATION DATE

DELIVERY MODE

08/08/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Carol.Wilson@bp.com

Office Action Summary	Application No. 10/550,428	Applicant(s) MISHRA, PRABHAT RANJAN	
	Examiner ELIZABETH VOLZ	Art Unit 4177	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/21/05, 6/13/06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This office action is responsive to the preliminary amendment filed on 9/21/05. As directed by the amendment: claims 3, 6, 8, 9, 10, 13 and 14 have been amended, no claims have been cancelled, and new claims 17-27 have been added. Thus, claims 1-27 are presently pending in this application.

Claim Objections

1. Claim 22 is objected to because of the following informality: Claim 22 is missing a period at the end of the sentence. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1, 7, 9, 12, 15, 16, 19 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. Claim 1 recites the limitation "the outlet neck" in Line 3. There is insufficient antecedent basis for this limitation in the claim.
5. Re claim 7, a broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then

narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, Claim 7 recites the broad recitation thermoplastics material, and the claim also recites thermoplastic elastomer material which is the narrower statement of the range/limitation.

6. Regarding Claims 9 and 15, the phrase "for example" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

7. Regarding Claims 15 and 16, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

8. Regarding Claims 12, 19 and 22, the phrase "and/or" is unclear as to whether the locking ring has both retaining lugs and retaining recesses or whether it has retaining lugs or retaining recesses. Preceding claims from which Claims 12, 19 and 22 depend, recite both retaining lugs and retaining recesses.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-6 and 9-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Landen (U.S. Patent No. 3,884,379).

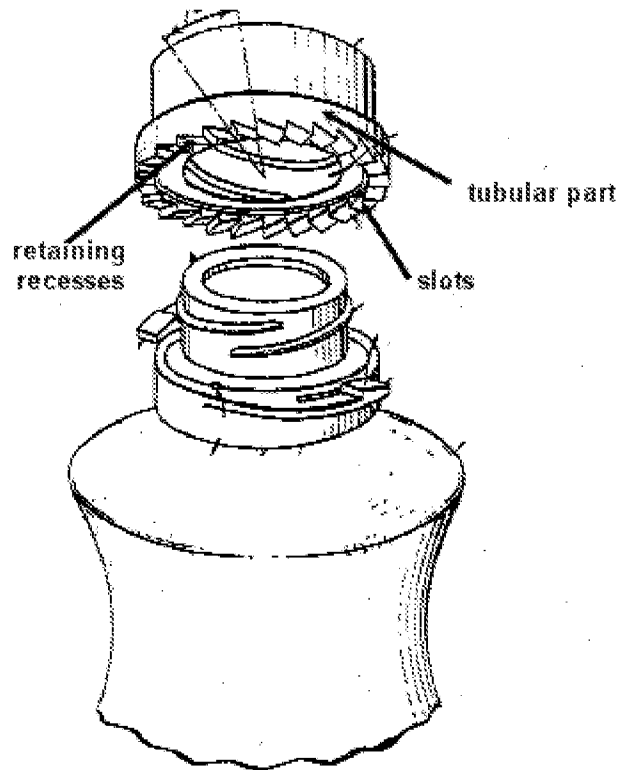
11. Regarding Claim 1, Landen discloses a closure 10 (Figure 1) for a container which comprises a cap 12 (Figure 1) and a locking ring 16 (Figure 4); the cap being adapted in use to sealably engage the opening of the outlet neck 11 (Figure 2) of a container; and the locking ring being adapted in use to be mounted over the outlet neck of said container and slidable between first and second positions, such that in use in the first position, the locking ring engages said cap and thereby prevents disengagement of said cap from said opening of said container and in the second position, the locking ring is disengaged from said cap thereby allowing said cap to disengage the opening of said outlet neck and retained in the second position on the outlet neck of said container (Figure 1 and 2).

12. Regarding Claim 2, Landen discloses a cap with a screw thread 13 (Figure 2) that co-operates with a screw thread 14 (Figure 2) on the outlet neck 11 (Figure 2) of the container.

13. Regarding Claims 3, 4, 10, 11, 17, 18, 20 and 21, Landen discloses a closure having one or more co-operating locking lugs 20 (Figure 4) and recesses (Figure 2 and X) to engage the locking ring and cap.

14. Regarding Claim 5, Landen discloses a closure with a cap which has a tubular part (Figure 2 and X) which in use, engages the neck of the container and the cap has locking recesses in the form of longitudinal slots (Figure 2 and X) in the tubular part.

Figure X



15. Regarding Claims 6, 23, 24 and 25, Landen discloses a cap which is manufactured of a plastic material (Column 1, Lines 49-51).

16. Regarding Claim 9, Landen discloses a locking ring 16 (Figure 4) which has one or more outer lugs 20 (Figure 4) by which it may be slid from the first to the second position.

17. Regarding Claims 12, 19 and 22, Landen discloses the locking rim 16 (Figure 4) which has retaining lugs 20 (Figure 4) and retaining recesses (Figure 2 and X) on a flexible part (Column 1, Lines 49-51) of the ring.

18. Regarding Claim 13, Landen discloses a locking ring 16 (Figure 4) manufactured of a plastic material (Column 1, Lines 49-51).

19. Regarding Claims 14, 26, and 27, Landen discloses a container 10 (Figure 1) with a closure 12 (Figure 1).

20. Regarding Claims 15 and 16, Landen discloses a container 10 (Figure 1) which is capable of containing liquids.

Claim Rejections - 35 USC § 103

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

22. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Landen (U.S. Patent No. 3,884,379) in view of John (U.S. Patent No. 1,967,191). Landen teaches all the limitations except for a closure which the cap is manufactured from a thermoplastics material and a thermoplastic elastomer material. However, John teaches thermoplastic material (Page 4, Lines 47-48). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to modify Landen to include thermoplastic material, as taught by John, in order to be easily molded into a preferred shape.

23. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Landen (U.S. Patent No. 3,884,379) in view of Wisniewski et al. (U.S. Patent No. 6, 413,460). Landen teaches all the limitations except for a cap manufactured from more than one

plastics material by sequential co-injection molding. However, Wisniewski et al. teaches sequential injection molding using more than one plastic (Column 4, Lines 42-53; Column 5, Lines 12-15). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to modify Landen to include sequential injection molding using more than one plastics material, as taught by Wisniewski et al., in order to gain different strengths to the closure. Moreover, the claimed phrase “sequential co-injection moulding” is being treated as a product-by-process limitation and since it has been held that a product-by-process limitation is not construed as being limited to the product formed by the specific process recited, therefore, even though Landen is silent as to the process used to mold the closure, it appears that the Landen’s product would be the same or similar as that claimed, especially since both applicant’s product and the prior art product is made of plastic material.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ELIZABETH VOLZ whose telephone number is (571)270-5430. The examiner can normally be reached on Monday-Thursday, 8am-5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Quang Thanh can be reached on (571)272-4982. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/E. V./
Examiner, Art Unit 4177

/Quang D. Thanh/
Supervisory Patent Examiner, Art
Unit 4177